UNITED STATES PATENT AND TRADEMARK OFFICE

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10/675,903	09/30/2003	Jeyhan Karaoguz	14449US02	6132

23446 7590 08/06/2007	**EXAMINER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/675,903	KARAOGUZ ET AL.
	Examiner	Art Unit	
	Tri H. Phan	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *17 May 2007*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-31* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892).
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment/Arguments

1.   This Office Action is in response to the Response/Amendment filed on May 17th, 2007.

Claims 1-31 are now pending in the application.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-5, 7-15, 17-25 and 27-31 are rejected under 35 U.S.C. 102(b) as being

anticipated by **Nakatsuyama, Takashi** (U.S.6,253,246; hereinafter refer as 'Nakatsuyama').

        - In regard to claims 1, 11 and 21, **Nakatsuyama** discloses *the computer program, system*

and method for controlling transfer of media content in a communication network (for example

see figures 1, 4; col. 1, lines 7-10; col. 4, lines 60-66; col. 7, line 58 through col. 8, line 12;

wherein video and music on demand 'VOD/MOD' are *"media content"*), *which comprise*

        receiving an input specifying at least one media file for transfer via a communication

channel in the communication network (for example see figure 4; col. 2, lines 14-15, 30-32;

wherein the request information such as genre, content name, etc. as disclosed in col. 5, lines 5-

23, 39-50, is the "*input specifying media file for transfer*");

　　　　causing a display of a plurality of quality of service options corresponding to the at least

one media file for selection by a remote user (for example see figure 2; col. 2, lines 30-32; col. 5,

lines 5-67; wherein, after the user, e.g. "*remote user*", inputs request information such as genre,

content name, etc., e.g. "*input specifying at least one media file*", into the genre select field 5,

content name input field 2 of the Graphical User Interface 'GUI', e.g. "*display*", in the display

screen 15a of the monitor as disclosed in fig. 2, col. 5, lines 39-50; the cursor will move to the

quality setting field 3 and transfer time setting field 4 of the GUI on the display screen 15a (see

fig. 2) and stand waiting for user's setting the selecting quality and transfer time in the

genre/content name field, as specified in col. 5, lines 50-51, e.g. "*causing a display of a plurality*

of quality of service options for selection by a remote user", and where the "*quality of service*

options" is disclosed in figure 3; col. 5, lines 52-67; col. 7, line 58 through col. 8, line 41);

　　　　receiving a quality of service selection specifying at least one of the plurality of quality of

service options (for example see col. 2, lines 30-32; col. 6, lines 38-45; steps S3-S4 in figure 4);

and

　　　　transferring the at least one media file via the communication channel utilizing the

quality of service selection (for example see col. 6, lines 38-45; step S5 in figure 4).

　　　　- Regarding claims 2, 4, 12, 14, 22 and 24, **Nakatsuyama** further discloses,

　　　　transferring at least a portion of specified parameters to a first communication device

coupled to the communication network (for example see figures 2-3; col. 2, lines 44-48; col. 7,

lines 58 through col. 8, line 12; wherein the choice of compression rates or ratios selected

according to the user's request and genre of the data in figure 2, e.g. *"portion of specified*

parameters", is transmitted to the distribution unit 20 through the communications network 30 as

disclosed in col. 6, lines 38-45); *and*

> *wherein the first communication device is at least one of a broadband headend and a*

media server ('data distribution unit 20' in figure 1; for example see Abstract; col. 3, lines 27-40;

where the distribution unit at the server side, e.g. *"media server"*, is applicable for distributing

MOD and VOD as disclosed in col. 12, lines 21-26).

> - In regard to claims 3, 13 and 23, **Nakatsuyama** further discloses,

> *configuring at least a portion of the communication channel by a second device utilizing*

the transferred at least a portion of said specified parameters (for example see col. 13, lines 29-

32; col. 14, lines 12-15; where the transmission channels are controlled by the controlling means,

e.g. *"second device"*).

> - Regarding claims 5, 15 and 25, **Nakatsuyama** further discloses,

> *generating the received input specifying the at least one media file for transfer via at*

least one of a media guide, channel guide and a device guide ('guide data'; for example see col.

8, lines 64-67).

- In regard to claims 7, 17 and 27, **Nakatsuyama** further discloses, *at least one of queuing and buffering at least a portion of the at least one media file during the transferring* ('means for storing'; for example see figure 1; col. 2, line 29; col. 4, lines 5-6).

- Regarding claims 8-9, 18-19 and 28-29, **Nakatsuyama** further discloses, *presenting a cost for transferring the at least one media file via the communication channel utilizing the quality of service selection* (for example see col. 12, lines 10-16) and *varying the cost depending on the selected parameters that specify the quality of service* (for example see col. 12, lines 1-16).

- In regard to claims 10, 20 and 30-31, **Nakatsuyama** further discloses, *wherein the parameters for transfer of the at least one media file comprises at least one of a resolution, color content, encoding type, encoding rate, compression type, display size, a bandwidth to be utilized for transfer of the transfer, a time to be utilized for the transfer, and a cost for the transfer* (for example see col. 5, lines 12-38; col. 7, line 58 through col. 8, line 41; col. 12, lines 1-16) and wherein controller, such as controllers 16 and 26 in figure 1, is the *"computer processor"*, for controlling the distribution data service (for example see col. 4, lines 49-67; col. 7, lines 25-57) such as VOD, MOD in the digital signal processing system as disclosed in col. 1, lines 12-22.

4.   Claims 1-7, 10-17, 20-27 and 30-31 are rejected under 35 U.S.C. 102(a) as being anticipated by **Radford et al.** (U.S.2002/0144276; hereinafter refer as '**Radford**').

- In regard to claims 1, 11 and 21, **Radford** discloses *the computer program, system and method for controlling transfer of media content in a communication network* (for example see page 1, para [0001], [0008]; where the multi-media content in stream data is *"media content"*, as defined in page 2, para [0017]), *which comprise*

receiving an input specifying at least one media file for transfer via a communication channel in the communication network (for example see page 2, para [0018], lines 1-5, 12-14; wherein the user's request audio/video content for streaming is the *"input specifying at least one media file for transfer"*);

causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user (for example see page 1, para [0008]; page 2, paras [0018-0019]; page 4, paras [0029-0031]; wherein the user interface in fig. 2, e.g. *"display"*, provides the quality levels, image size, revolution or bit rate, etc. are *"quality of service options for selection"* for selecting the initial quality levels by user, e.g. *"remote user"*);

receiving a quality of service selection specifying at least one of said plurality of quality of service options (for example see pages 1-2, para [0009], lines 1-12; page 4, para [0031], lines 9-34; wherein the user's re-requesting quality level/display time are *"specifying quality of service selection in the quality of service options"*); and

transferring said at least one media file via said communication channel utilizing said quality of service selection (for example see page 2, para [0009], lines 12-14; page 4, para [0031]; wherein the new streamed data for the user's re-request, e.g. *"media file utilizing said quality of service selection"*, is delivered to user).

- Regarding claims 2, 4, 12, 14, 22 and 24, **Radford** further discloses,

transferring at least a portion of specified parameters ('re-request') *to a first communication device coupled to the communication network* (for example see pages 1-2, para [0009], lines 1-12; page 4, para [0031], lines 1-16; wherein listing server or hosting server is the *"first communication device"*); *and*

wherein the first communication device is at least one of a broadband headend and a media server (wherein the listing server or hosting server, e.g. *"media server"*, is for delivery the multi-media content files as disclosed in page 2, para [0017], to user's request).

- In regard to claims 3, 13 and 23, **Radford** further discloses,

configuring at least a portion of the communication channel by a second device utilizing the transferred at least a portion of said specified parameters (for example see page 3, para [0022]; page 4, paras [0029-0031]; wherein the user/client device, as defined in page 2, para [0016], e.g. *"second device"*, selects the desire of quality level for the streamed data).

- Regarding claims 5-6, 15-16 and 25-26, **Radford** further discloses,

generating the received input specifying the at least one media file for transfer via at least one of a media guide, channel guide and a device guide from a television screen within a home (for example see page 2, para [0016]; page 4, para [0028]).

- In regard to claims 7, 17 and 27, **Radford** further discloses, *at least one of queuing and buffering at least a portion of the at least one media file during the transferring* (for example see

page 4, para [0031], lines 19-23; wherein the new streamed data is cached by the system, e.g.

"*buffering*").

- In regard to claims 10, 20 and 30-31, **Radford** further discloses, *wherein the*

parameters for transfer of the at least one media file comprises at least one of a resolution, color

content, encoding type, encoding rate, compression type, display size, a bandwidth to be utilized

for transfer of the transfer, a time to be utilized for the transfer, and a cost for the transfer (for

example see pages 1-2, para [0009]; page 2, para [0017]; page 4, para [0028], [0030-0031]) and

wherein, the "*computer processor*" is inherently being in the servers or client device, for

controlling the delivery of streamed video data over the communication network.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 6, 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nakatsuyama, Takashi (U.S.6,253,246).

- In regard to claims 6, 16 and 26, **Nakatsuyama** discloses the data distribution method

and system for distributing video and music on demand, e.g. VOD, MOD, to the user's request

as applied in part 4 above of this office action; wherein the monitor's screen of the data receiver 10 displays the selecting choices for user's request inputting through keyboard or mouse (see figure 2) as disclosed in col. 5, lines 24-67; col. 9, lines 52-67; the controller will generate the desired corresponding data quality and transfer time, e.g. *"generating the received input from a screen within a home"*. Though, **Nakatsuyama** does not explicitly disclose about *"television"*; however, it is obvious that *"television"* screen or monitor screen is just choices for displaying the control to the user for setting/adjusting the desired quality.

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to use the *"television"* screen for display the user's selecting choices in the **Nakatsuyama**'s system, with the motivation being to provide different types of display with less complicated and more friendly, e.g. TV vs. computer, to the user for use as household appliance in the user's home as disclosed in col. 3, lines 34-36.

7.   Claims 8-9, 18-19 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Radford et al.** (U.S.2002/0144276) in view of **Nakatsuyama, Takashi** (U.S.6,253,246).

- Regarding claims 8-9, 18-19 and 28-29, **Radford** discloses all the subject matter of the claimed invention as applied in part 5 above of this office action; but fails to explicitly disclose about the *"cost"* which vary based on the selected parameters that specify the quality of service. However, such implementation is known in the art.

For example, **Nakatsuyama** discloses, *presenting a cost for transferring the at least one media file via the communication channel utilizing the quality of service selection* (for example

see col. 12, lines 10-16) and *varying the cost depending on the selected parameters that specify the quality of service* (for example see col. 12, lines 1-16).

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to presenting the cost, which vary based on the selected parameters that specify the quality of service as taught by **Nakatsuyama** into **Radford**'s system, with the motivation being to provide convenience to the user for knowing the amount of fee due to the selected service as disclosed in **Nakatsuyama**: col. 12, lines 10-16.

Response to Amendment/Arguments

8. The 35 U.S.C. 101 rejection to claims 11-20 have been withdrawn in light of applicant's amendment filed on 17 May 2007.

9. Applicant's arguments filed on February 5th, 2004 have been fully considered but they are not persuasive.

In the REMARKS, pages 10-17, under section "Rejection of claims under 35 U.S.C. 102(a)", Applicant mainly argues that **Radford** fails to disclose *"causing a display of a plurality of quality of service options corresponding to the at least one media file for selection by a remote user"*, which occurs **after** the media file is specified but **before** the specified media file is transferred as read in the context of the entire respective claim. Examiner respectfully disagrees. **Radford** discloses, wherein the initial request and quality level, e.g. *"input specifying media file for transfer"*, are set/selected by the user in the data transfer preference as specified in page 2,

para [0019], lines 1-6; **before** the initial streamed data file is transferred (see page 2, para [0018],

lines 12-14; e.g. which is occurred **after** the media file is specified but **before** the specified

media file is transferred). More than that, by re-requesting, the user can adjust the quality level of

the content or displaying time for the second data content delivering to the user at the desired

quality level and starting time, which is the desired quality level and displaying time in the re-

request (the media file is specified) are set/occurred **before** the second streamed data content (the

specified media file) is transferred; and where the *"display of a plurality of quality of service*

options corresponding to the media file for selection" (fig. 2, page 4, paras [0029-0031]) is

provided to user for setting/adjusting the desired quality level and displaying time of the selected

streamed data content file.

Even for the initial streamed data content case, the claim ~~is~~ does not preclude~~d~~ that the initial

streamed data content and the video/quality control ~~are~~ to be display~~ed~~ed at the same time (see fig. 2).

Applicant also argues that **Radford** fails to disclose *"receiving a quality of service*

selection specifying at least one of said plurality of quality of service options". Examiner

respectfully disagrees. **Radford** does disclose, wherein the quality level and displaying time, e.g.

"quality of service selection specifying one of said plurality of quality of service options", are

adjusted by the user in the re-request and provide to the servers for delivering the second data

content file to user as desired, e.g. *"transferring said at least one media file via said*

communication channel utilizing said quality of service selection". Thus, the desired quality level

and displaying time in the re-request (the media file is specified) are set/occurred **before** the

second streamed data content (the specified media file) is transferred. Therefore, Examiner

concludes that **Nakatsuyama** teaches the arguable features.

In the REMARKS, pages 17-18, under section "Rejection of claims under 35 U.S.C.

102(b)", Applicant argues that **Nakatsuyama** fails to disclose *"causing a display of a plurality of*

quality of service options corresponding to the at least one media file for selection by a remote

user". Examiner respectfully disagrees. **Nakatsuyama** does disclose wherein, after the user

(*"remote user"*) inputs the request information such as genre, content name, etc. (*"input*

specifying at least one media file"), into the genre select field 5, content name input field 2 of the

Graphical User Interface 'GUI' (*"display"*) in the display screen 15a; the cursor will move to the

quality setting field 3 and transfer time setting field 4 of the GUI on the display screen 15a and

stand waiting for setting the desired quality and transfer time in the GUI, as specified in col. 5,

lines 50-51, e.g. *"causing a display of a plurality of quality of service options for selection by a*

remote user"; and where the *"quality of service options for selection"* is disclosed in col. 5, lines

52-67; col. 7, line 58 through col. 8, line 41. Therefore, Examiner concludes that **Nakatsuyama**

teaches the arguable features.

In the REMARKS, pages 19-21, under section "Claim Rejection under 35 U.S.C.

103(a)", Applicant argues that there is no specific suggestion or teaching in the reference to

combine prior art, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where

there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. In this case,

Radford and **Nakatsuyama**, in the same endeavor, provide system and method for distributing

data over network to user's side, through the use of program interface for setting/adjusting the

desired quality of service of the request data content. Therefore, the combination is proper.

In the REMARKS, pages 21-23, under section "Traversal of Official Notice", Applicant

argues that **Nakatsuyama** fails to disclose *"generating said received input from a television*

screen within a home". Examiner respectfully disagrees. As discussed in part 6 above of this

office action, **Nakatsuyama** discloses, wherein user inputs the request information through the

use of the GUI on the 'display screen of the monitor'; the controller will generate a

corresponding data quality and transfer time as desired as specified in col. 5, lines 39-67; e.g.

"generating said received input from a screen within a home". Though, **Nakatsuyama** fails to

explicitly disclose about *"television"* screen; however, it is obvious that *"television"* screen or

monitor screen is just household appliance choices as disclosed in col. 3, lines 34-36, for

displaying the control to the user for setting/adjusting the desired quality and displaying time of

the data content file.

As discussed in part 4 of this office action, **Radford** also discloses, according to the

quality level and displaying time setting/adjusting through the user interface (see page 4, paras

[0029-0031], at the client devices such as PDAs, computers, digital televisions, etc. as specified

in page 2, para [0016], lines 3-7; the streaming data files will generate as specified in page 4,

para [0028]; e.g. *"generating said received input from a television screen within a home"*.

Therefore, Examiner concludes that **Nakatsuyama** and **Radford** teach the arguable features.

Claims 2-10, 12-20 and 22-31 are rejected as in Part 3-4 and 6-7 above of this Office

action and by virtue of their dependence from claims 1, 11 and 21.

Conclusion

10.   Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The

examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi H. Pham can be reached on (571) 272-3179.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300

Hand-delivered responses should be brought to Randolph Building, 401 Dulany Street,

Alexandria, VA 22314.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Technology Center 2600 Customer Service Office, whose telephone

number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri H. Phan
August 2, 2007

CHI PHAM
SUPERVISORY PATENT EXAMINER